

**APPENDIX**

Signed by Governor  
(August 25, 1986)

H.C.R. 1  
H.C.R. 2  
H.C.R. 3  
H.C.R. 16  
H.C.R. 19

**THIRTEENTH DAY**  
(Thursday, August 28, 1986)

The Senate met at 11:30 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Green, Harris, Henderson, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Absent: Howard.

Absent-excused: Glasgow.

A quorum was announced present.

Senator John Leedom offered the invocation as follows:

Dear Heavenly Father, we meet again today and ask for Your guidance and hand in our lives. Let us turn our eyes to You in everything that we do. Pray for all of our actions to be understood by those throughout the State. Let us always keep in mind the needs of those people that are less fortunate and need all of our guidance and help. Bless this body today in its deliberations. In Christ's name, Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**LEAVE OF ABSENCE**

Senator Glasgow was granted leave of absence for today on account of important business on motion of Senator Brooks.

**MESSAGE FROM THE HOUSE**

House Chamber  
August 28, 1986

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**H.C.R. 11**, Requesting Congress to amend the Price-Anderson Act regarding high-level radioactive waste.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

### GUEST PRESENTED

Senator Caperton was recognized and introduced Dr. Robert Cummings of Taylor, the Capitol Physician for the Day.

Dr. Cummings was welcomed by the Senate and received their appreciation for his service.

### REPORT OF STANDING COMMITTEE

Senator Jones submitted the following report for the Committee on Finance.

**S.B. 43**

**S.B. 42** (Amended)

**C.S.S.B. 44**

### BILLS AND RESOLUTION SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolution:

**S.B. 31**

**S.J.R. 4**

**H.B. 13**

### SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

**S.B. 48** by Parker Finance  
Relating to the minimum sick leave program for professional personnel of school districts.

**S.B. 49** by Parker Finance  
Relating to state funding of community education services provided by school districts.

**S.C.R. 14** by Parker Economic Development  
Directing the Finance Commission to conduct an interim study relating to the feasibility and practicality of mortgage company regulation by the State of Texas.

**S.C.R. 15** by Krier, Montford Finance  
Memorializing Texas delegation in Congress to change legislation eliminating the deduction for sales taxes.

### HOUSE RESOLUTION ON FIRST READING

The following resolution received from the House was read the first time and referred to the Committee indicated:

**H.C.R. 11**, To Committee on Natural Resources.

### SENATE RESOLUTION 59

Senator Traegar offered the following resolution:

WHEREAS, Engineer-Director Mark Goode, after 39 years of service to the highway department, is leaving a long record of accomplishment and a wealth of friendships; and

WHEREAS, Mark Goode has been a "company man" for the highway department since his first assignment driving survey stakes into the river bottom at Rockwall; and

WHEREAS, Mark Goode has distinguished himself in service to the department and the people of Texas as a field engineer, resident engineer, assistant district engineer, district engineer, assistant engineer-director, and engineer-director; and

WHEREAS, Mark Goode has provided an open administration that encourages the public to participate in the development of highways and public transportation in Texas; and

WHEREAS, The outstanding stewardship of Mark Goode over the funds dedicated to transportation in Texas has enabled the department to contract for more highway construction in 1986 than in any previous year in the history of the department; and

WHEREAS, These highway construction projects will simultaneously address the problems of urban congestion and protect the taxpayers' investment in the entire highway system; now, therefore, be it

RESOLVED by the Senate of the State of Texas, 69th Legislature, 2nd Called Session, That the Engineer-Director of the State Department of Highways and Public Transportation, Mr. Mark Goode, be officially commended for his dedicated service to the State of Texas; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Mr. Mark Goode as a token of profound gratitude from the Texas Senate for a job well done.

The resolution was read.

On motion of Senator Edwards and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Traeger and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.

#### **GUESTS PRESENTED**

Senators Traeger, Truan, Blake, Montford, Whitmire, Edwards, Farabee and Jones expressed their appreciation to Mr. Goode.

The President requested that Mr. and Mrs. Goode be escorted to the rostrum by Senator Traeger and Highway Commissioners Robert C. Lanier, Robert M. Bass and Ray C. Stoker, Jr.

Mr. Goode presented his wife, Lucille, to the Members of the Senate and addressed the Senate, expressing his appreciation to the Senate for their friendship.

The President presented an enrolled copy of S.R. 59 to Mr. Goode.

#### **MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas  
August 27, 1986

TO THE SENATE OF THE SIXTY-NINTH LEGISLATURE, SECOND CALLED SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

**TO BE A MEMBER OF THE BATTLESHIP TEXAS ADVISORY BOARD:**

For a term to expire February 1, 1992:

DAVID A. JONES  
440 Louisiana  
Suite 1875  
Houston, Texas 77002

(Mr. Jones is being appointed pursuant to Section 22.251, Parks and Wildlife Code.)

**TO BE A MEMBER OF THE COUNCIL ON DISABILITIES:**

For a term to expire January 31, 1987:

REED MARTIN  
2202 Spring Creek  
Austin, Texas 78704

(Mr. Martin is being reappointed.)

Respectfully submitted,

/s/Mark White  
Governor of Texas

**SENATE BILL 10 WITH HOUSE AMENDMENT**

Senator Harris called **S.B. 10** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.  
Floor Amendment - Sutton

Amend **S.B. 10** by adding Section 2 as follows:

**SECTION 2.** Chapter IX, Article 10a of the Texas Banking Code of 1943 (art.342-9043, VTCS) is amended to read as follows:

**Art. 10a. LEGAL HOLIDAYS FOR BANKS OR TRUST COMPANIES - ALTERNATIVE LEGAL HOLIDAYS FOR BANKS OR TRUST COMPANIES - DISCRIMINATION PROHIBITED.**

**Sec. 1. Legal Holidays for Banks or Trust Companies.** Notwithstanding any existing provisions of law relative to negotiable or nonnegotiable instruments or commercial paper, but subject to the provisions of Section 2 of this article, only the following enumerated days are declared to be legal holidays for banking purposes on which each bank or trust company in Texas shall remain closed: Saturdays, Sundays, January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, the 11th day of November, the fourth Thursday in November, and December 25.

When the dates July 4, November 11, or December 25 fall on Saturday, then the Friday immediately preceding such Saturday shall also be a legal holiday for banking purposes on which each bank or trust company in Texas shall remain closed. When the dates January 1, July 4, November 11, or December 25 fall on Sunday, then the Monday next following such Sunday shall also be a legal holiday for banking purposes on which each bank or trust company in Texas shall remain closed.

All such legal holidays shall be neither business days nor banking days under the laws of this State or the United States, and any act authorized, required or permitted to be performed at or by any bank or trust company on such days may

permitted to be performed at or by any bank or trust company on such days may be performed on the next succeeding business day and no liability or loss of right of any kind shall result therefrom to any bank or trust company.

Sec. 2. Alternative Legal Holidays for Banks or Trust Companies. Any bank or trust may elect to designate days on which it may close for general banking purposes pursuant to the provisions of this section, instead of Section 1 of this article, provided that any bank or trust company which has elected to be governed by this section shall remain closed on the following enumerated days, which days are declared to be legal holidays for banking purposes: Sundays, January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, the 11th day of November, the fourth Thursday in November, and December 25. When the dates July 4, November 11, or December 25 fall on Saturday, then the Friday immediately preceding such Saturday shall also be a legal holiday for all banking purposes on which each bank or trust company shall remain closed. When the dates January 1, July 4, November 11, or December 25 fall on Sunday, then the Monday next following each Sunday shall also be a mandatory legal holiday for banking purposes on which each bank or trust company shall remain closed. Except as herein provided, any bank or trust company doing business in this state may, at its option, elect to be governed by this section and closed for general banking purposes either on Saturday or on any other weekday of any week in the year in addition to mandatory legal holidays, provided:

(a) such day is designated at least fifteen (15) days in advance by adoption of a resolution concurred in by a majority of the Board of Directors thereof (or, if an unincorporated bank or trust company, by its owner or a majority of its owners, if there be more than one owner); and

(b) notice of the day or days designated in such resolution is posted in a conspicuous place in such bank or trust company for at least fifteen (15) days in advance of the day or days designated; and

(c) a copy of such resolution certified by the president or cashier of such bank or trust company is filed with the Banking Department of Texas.

The filing of such copy of resolution as aforesaid with the Banking Department of Texas shall be deemed to be proof in all courts in this State that such bank or trust company has duly complied with the provisions of this section. Any such election to close shall remain in effect until a subsequent resolution shall be adopted and notice thereof posted and a copy thereof filed in the manner above provided.

If any bank or trust company elects to close for general banking purposes on Saturday or any other weekday as herein provided, it may, at its option, remain open on such day for the purpose of performing limited banking services. Notice of election to perform limited banking services shall be contained in the resolution and notices, above provided, with respect to closing for general banking purposes. Limited banking services may include such of the ordinary and usual services provided by the bank as the Board of Directors may determine, except the following: making loans, renewing or extending loans, certifying checks, issuing cashier's checks.

Such day upon which such bank or trust company may elect to close for general banking purposes shall with respect to such institution be treated as a legal holiday for all purposes and not a business day; provided that if such bank shall elect to perform limited banking services on such day, the same shall not be deemed a legal holiday for the performance of limited banking services. Any bank or trust company which elects to close for general banking purposes on Saturday or any other weekday but which elects to perform limited banking services shall not be subjected to any liability or loss of rights for performing limited banking services or refusing to perform any other banking services on such day.

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed viva voce vote.

### **SENATE BILL 11 WITH HOUSE AMENDMENT**

Senator Harris called S.B. 11 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - Gibson

Substitute the following for S.B. 11:

### **A BILL TO BE ENTITLED AN ACT**

relating to the acquisition, management, and supervision of banks and bank holding companies located in Texas by an out-of-state bank holding company; providing penalties; amending The Texas Banking Code of 1943, as amended (Article 342-101 et seq., Vernon's Texas Civil Statutes), by amending Article 2 of Chapter I, Article 4 of Chapter IV, and Articles 12 and 14 of Chapter IX and by adding Article 16 to Chapter IX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 2, Chapter I, The Texas Banking Code of 1943, as amended (Article 342-102, Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 2. DEFINITIONS. As used in this code the following terms, unless otherwise clearly indicated by the context, have the meanings specified below:

"Code"—The Texas Banking Code of 1943.

"Banking Department"—The Banking Department of Texas.

"Finance Commission" or "Commission"—The Finance Commission of Texas.

"Banking Section"—The Banking Section of The Finance Commission of Texas.

"Building and Loan Section"—The Building and Loan Section of The Finance Commission of Texas.

"Commissioner"—The Banking Commissioner of Texas.

"Deputy Commissioner"—The Deputy Banking Commissioner of Texas.

"Departmental Examiner"—The Departmental Bank Examiner of The Banking Department of Texas.

"Examiner"—Bank Examiner of The Banking Department of Texas.

"Assistant Examiner"—Assistant Bank Examiner of The Banking Department of Texas.

"State Bank"—Any corporation hereafter organized under this Code, and any corporation heretofore organized under the laws of the State of Texas, and which was, prior to the effective date of this Act, subject to the provisions of Title 16 of the Revised Civil Statutes of Texas, 1925, as amended, including banks, trust companies, bank and trust companies, savings banks and corporations subject to the provisions of Chapter 9, Title 16 of the Revised Civil Statutes of Texas, 1925, as amended.

"Director, officer or employee"—Director, officer or employee of a state bank.

"Board"—Board of directors of a state bank.

"National Bank"—Any banking corporation organized under the provisions of Title 12, United States Code, Section 21 (U.S. Rev. Statutes, Section 5133) and the amendments thereto.

“‘State Building and Loan Association’ or ‘State Association’—Any building and loan or savings and loan association heretofore or hereafter organized under the laws of this State.

“‘Federal Savings and Loan Association’—Any savings and loan association heretofore or hereafter organized under the laws of the United States of America.

“‘District Court’—A district court of the county in which the bank involved is domiciled.

“‘City’—City, village, town, or similar community.

“‘Capital’—The common capital stock.

“‘Chapters and Articles’—The Chapters and articles of this Code.

“‘Bank Holding Company’—A company defined as a bank holding company by Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841).

“‘Bank Holding Company Act of 1956’—The federal Bank Holding Company Act of 1956, as amended, P.L. 84-511 (12 U.S.C. Sec. 1841 et seq.).

“‘Bank Services’—Activities, such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and marking of checks, statements, notices and similar items or other clerical, bookkeeping, accounting, statistical or similar functions performed by a bank, that may be categorized as data processing and any services associated with the electronic transfer of funds.

“‘Processor’—A state or national bank, banking affiliate, corporation, or other business that performs bank services.

“‘Texas Bank Holding Company’—A bank holding company that:

“(1) has its principal executive office in this State;

“(2) is not owned or controlled, directly or indirectly, by a bank holding company that has its principal executive office outside this State;

“(3) owns or controls, directly or indirectly:

“(A) state banks or national banks domiciled in this State holding not less than 50 percent of the total deposits, as defined by Section 2[3], Federal Deposit Insurance Act (12 U.S.C. Section 1813), held by all banks that it owns or controls, directly or indirectly; or

“(B) a state bank or national bank domiciled in this State and owned or controlled, directly or indirectly, such a bank on July 15, 1986; and

“(4) either:

“(A) owns or controls, directly or indirectly, a state bank or national bank domiciled in this State and owned or controlled, directly or indirectly, such a bank on July 15, 1986; or

“(B) acquires after July 15, 1986, ownership or control, direct or indirect, of any state bank or national bank in this State and at the time it becomes a bank holding company the only bank or banks owned or controlled by it, directly or indirectly, are located in this State.

“‘Out-of-State Bank Holding Company’—A bank holding company that is not a Texas bank holding company. For purposes of this code a bank holding company is considered an out-of-state bank holding company at all times after it becomes an out-of-state bank holding company.

“‘Control’—The ability or power to vote, directly or indirectly, 25 percent or more of any class of voting securities or the ability to control in any manner the election of a majority of the board of directors.

“‘Capital Adequacy Guidelines’—Regulations, rules, orders, or other guidelines relating to capitalization requirements of a state bank, national bank, or bank holding company adopted by the Bureau of the Comptroller of the Currency of the United States in the case of a national bank, the Board of Governors of the Federal Reserve System in the case of a bank holding company, the commissioner in the case of a state bank, or the successor to any of those authorities having the

authority to regulate capitalization requirements of a state bank, national bank, or bank holding company, as the case may be."

SECTION 2. Article 4, Chapter IV, The Texas Banking Code of 1943, as amended (Article 342-404, Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 4. DIRECTORS—NUMBER—CHANGE OF NUMBER—ADVISORY DIRECTORS

"Section 1. A State bank shall have not less than five (5) nor more than twenty-five (25) directors, the majority of whom shall be residents of the State of Texas.

"Section 2. If the bank is owned or controlled, directly or indirectly, by an out-of-state bank holding company, directors who are employees or officers or spouses of employees or officers of the bank or out-of-state bank holding company, or an affiliate of the bank or out-of-state bank holding company shall not be counted as residents of the State of Texas for the purpose of Section 1 of this article. For the purposes of this section, 'affiliate' means a person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the bank or out-of-state bank holding company.

"Section 3. The number of directors may be changed from time to time within the limits [above] prescribed by Sections 1 and 2 of this article, without amendment of the charter, by resolution adopted at any regular meeting of the stockholders or any special meeting of stockholders called for the purpose of electing directors, which resolution shall be spread on the minutes of the meeting, and a certified copy shall be filed with the Commissioner, for which filing no fee shall be charged.

"Section 4. The board of directors with the approval of the stockholders may elect an advisory board of directors in any number designated by resolution of the stockholders, which advisory directors shall not be required to comply with Article 5 of this Chapter and shall not have the right to vote as directors of the bank."

SECTION 3. Article 12, Chapter IX, The Texas Banking Code of 1943 (Article 342-912, Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 12. ACQUISITION OF BANK OR HOLDING COMPANY [UNDER FEDERAL LAW]—NOTICE TO COMMISSIONER—RECOMMENDATIONS OF COMMISSIONER

"Section 1. A state bank, a national bank in the state, or a bank holding company seeking, directly or indirectly, to acquire or acquire control of a state bank, a [or] national bank in [within] the state, or a bank holding company owning or controlling a state bank or a national bank located in the state, that submits an application for approval to the Board of Governors of the Federal Reserve System pursuant to Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1842), shall transmit a copy of the application, as and when finally accepted for filing by the board of governors, to the commissioner.

"Section 2. If the application is made by a state bank or involves the direct or indirect acquisition of the voting shares or assets of a state bank, including a bank holding company that owns or controls, directly or indirectly, a state bank, the commissioner, on receipt of the notice prescribed by Subsection (b) of Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1842(b)), shall respond in writing within the time limit prescribed by that subsection. The response shall set forth the views and recommendations of the commissioner concerning the application. If the commissioner shall determine that the application does not evidence compliance with the provisions of the Community Reinvestment Act of 1977 (12 U.S.C. Sec. 2901 et seq.) following his review according to the criteria in Section 6 of this Article 12, he shall include that determination in his response; provided, however, that the commissioner shall not be required to disapprove the



application as a result of such determination. If the commissioner disapproves the application, he shall, with the assistance of the attorney general, present evidence at the hearing held pursuant to Subsection (b) of Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1842(b)).

"Section 3. If the application is made by a national bank located in the state or involves the direct or indirect acquisition of the voting shares or assets of a national bank located in the state, including a bank holding company that owns or controls, directly or indirectly, a national bank located in the state, the commissioner shall advise the Board of Governors of the Federal Reserve System of any views and recommendations he may have concerning the application and other material before the board of governors in connection with the application. If the commissioner shall determine that the application does not evidence compliance with the provisions of the Community Reinvestment Act of 1977 (12 U.S.C. Sec. 2901 et seq.) following his review according to the criteria in Section 6 of this Article 12, he shall include that determination in his advice to the board of governors; provided, however, that the commissioner shall not be required to recommend to the board of governors that the application be denied because of such determination. If the commissioner recommends to the board of governors that the application be denied, he shall request that a hearing pursuant to Subsection (b) of Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1842(b)) be held. If the board of governors should grant such request, the commissioner shall, with the assistance of the attorney general, present evidence at the hearing as hereinabove provided. If the board of governors should deny such request, the commissioner is authorized and directed to pursue the remedies available to him as an aggrieved party in accordance with the provisions of Section 9 of the Bank Holding Company Act of 1956 (12 U.S.C. Section 1848).

"Section 4. An out-of-state bank holding company that seeks to take an action specified in Section 1 of this article for which a copy of the application must be filed with the commissioner shall also file with the commissioner, when it delivers the application:

"(1) evidence that the out-of-state bank holding company is authorized to take the action under Article 16 of this chapter;

"(2) evidence that the out-of-state bank holding company and each state bank, national bank in this state, and bank holding company being acquired will, after the acquisition, comply with applicable capital adequacy guidelines, and that the consolidated equity capital condition of these banks in this state during the first three years after being acquired will be maintained at least at the level existing immediately prior to the acquisition less the consolidated net loss of these banks, if any;

"(3) agreements, subject to any contrary provision of applicable federal law, that while the out-of-state bank holding company directly or indirectly owns or controls any national bank in this state:

"(A) a majority of the directors of each national bank shall be residents of the State of Texas, except that directors who are employees or officers or spouses of employees or officers of the bank, out-of-state bank holding company, or an affiliate of the bank or out-of-state bank holding company may not be counted as residents of the State of Texas for the purpose of this paragraph; and

"(B) the out-of-state bank holding company will not directly or indirectly own or control:

"(i) an institution located in this state, the deposits of which are insured by the Federal Deposit Insurance Corporation or any successor performing similar functions, unless the institution is a bank as defined by Section 2, Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841); or

“(ii) an institution located in this state, the deposits of which are insured by the Federal Savings and Loan Insurance Corporation or any successor performing similar functions; and

“(4) an agreement to provide such additional information as may be required by rules promulgated by the commissioner.

“Section 5. (a) The commissioner shall advise the Board of Governors of the Federal Reserve System that the commissioner believes the application does not comply with Texas law and the commissioner shall present evidence at any hearing before the board of governors or pursue the remedies available to the commissioner as an aggrieved party in accordance with Section 9 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1848) if, on review of the materials filed by an out-of-state bank holding company under Sections 1 and 4 of this article, the commissioner believes that:

“(1) the out-of-state bank holding company is not authorized to take the proposed action under Article 16 of this chapter;

“(2) either:

“(i) the evidence submitted does not establish that the out-of-state bank holding company, and each state bank, national bank located in this state, and bank holding company being acquired will, after the proposed acquisition, comply with applicable capital adequacy guidelines and during the first three years after the acquisition maintain the consolidated equity capital condition which existed immediately prior to the acquisition less the consolidated net loss of these banks, if any; or

“(ii) the out-of-state bank holding company has not agreed to capitalize, simultaneously with completion of the transaction, any state bank being acquired in an amount sufficient to meet those guidelines; or

“(3) the out-of-state bank holding company has not entered into an agreement provided for in Section 4(3) of this article.

“(b) In any hearing or in pursuing remedies under this section, the commissioner may request the assistance of the attorney general.

“Section 6. (a) In his review of a bank's compliance with the provisions of the Community Reinvestment Act of 1977 (12 U.S.C. Section 2901 et seq.), the commissioner is encouraged to give priority to the following criteria:

“(1) Continued and increased extension of credit or direct or indirect investment in projects or programs designed to develop or redevelop areas in which persons with low or moderate incomes reside, and designed to meet the credit needs of those low or moderate-income areas or that primarily benefit persons of low and moderate income, as long as those investments are consistent with sound banking practices, policies, and procedures. For the purposes of this review, personal installment loans, loans made to purchase, or loans secured by an automobile shall not be considered qualifying community reinvestment.

“(2) Continued and increased investments in governmentally insured, guaranteed, subsidized, or otherwise sponsored programs for housing, small farms, or businesses that address the needs of the low and moderate-income areas.

“(3) Continued and increased investments in residential mortgage loans, home improvement loans, housing rehabilitation loans, and small business or small farm loans originated in low and moderate-income areas, or the purchase of such loans originated in low and moderate-income areas.

“(4) Continued and increased investments for the preservation or revitalization of urban or rural communities in low and moderate-income areas.

“(5) Continued investments in the obligations of state and local governmental entities, priority to be given where possible to those entities located in the local community or local trade area of each bank.

“(6) That there will be no diminution of reasonable availability of banking services to all segments of the public and economy of this state, with special

emphasis on economic development and the financing of enterprises to increase employment opportunities.”

SECTION 4. Article 14, Chapter IX, The Texas Banking Code of 1943 (Article 342-914, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Article 14. SUPERVISION OF BANK HOLDING COMPANIES. (a) The Commissioner has jurisdiction over a bank holding company to the same extent as a state bank if the bank with the largest amount of total assets owned by the bank holding company is a state bank or if the majority of the combined assets of state and national banks owned by the bank holding company are held by state banks. The Commissioner shall accept the Reports of Inspection of the Board of Governors of the Federal Reserve System.

“(b) The Commissioner has jurisdiction over an out-of-state bank holding company to enforce an agreement filed with the Commissioner under Article 12 of this chapter.

“(c) A bank holding company that knowingly violates or participates in the violation of a provision of Article 12 of this chapter, an agreement filed with the Commissioner under that article, or a regulation or order issued by the Commissioner or the banking section under that article is liable to the state for a civil penalty in an amount, based on the severity of the violation, of not more than \$1,000 per day for each day during which the violation continues. The attorney general, at the request of the Commissioner, shall sue to collect the penalty.”

SECTION 5. Chapter IX, The Texas Banking Code of 1943 (Article 342-101 et seq., Vernon’s Texas Civil Statutes), is amended by adding Article 16 to read as follows:

“Article 16. OUT-OF-STATE BANK HOLDING COMPANIES—AUTHORIZATION—LIMITATIONS

“Section 1. Except as otherwise provided by this article, an out-of-state bank holding company may, directly or indirectly, acquire or acquire control of a state bank, national bank located in the state, or bank holding company owning or controlling, directly or indirectly, a state bank or national bank located in the state.

“Section 2. (a) Before September 1, 2001, the authority granted by Section 1 of this article is available to an out-of-state bank holding company only if each state bank or national bank in this state that would, on the effective date of the transaction, be owned or controlled, directly or indirectly, by the out-of-state bank holding company:

“(1) existed, or had its charter application filed by a person or entity other than any out-of-state bank holding company, before July 15, 1986, and since the latter of July 15, 1986, or the date its charter was granted has continuously operated as a bank, as defined in Section 2, Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841); or

“(2) has existed and continuously operated as a bank for a period of at least five years.

“(b) A bank that is the successor as a result of merger or acquisition of all or substantially all of the assets of a prior bank, while the successor bank and the prior bank are continuously operated as a bank, shall be considered to have been in existence and continuously operated for purposes of this section during the period of its existence and continuous operation as a bank and during the period of the existence and continuous operation of the prior bank. A bank effecting a purchase and assumption, merger, or similar transaction with or supervised by the Federal Deposit Insurance Corporation or any successor performing similar functions shall be considered to have been in existence and continuously operated for purposes of this section during the existence and continuous operation of the bank with respect to which the transaction was consummated.

“(c) This section expires September 1, 2001.

“Section 3. The authority granted by Section 1 of this article is not available to an out-of-state bank holding company that directly or indirectly owns or controls:

“(1) an institution located in this state, the deposits of which are insured by the Federal Deposit Insurance Corporation or any successor performing similar functions, unless such institution is a bank as defined by Section 2, Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841); or

“(2) an institution located in this state, the deposits of which are insured by the Federal Savings and Loan Insurance Corporation or any successor performing similar functions.

“Section 4. The authority granted in Section 1 of this article is not available to an out-of-state bank holding company if after the transaction the aggregate deposits of the state banks and national banks domiciled in this state owned or controlled, directly or indirectly, by the out-of-state bank holding company would exceed 25 percent of the total deposits of all state banks and national banks in this state as reported in the most recently available reports of condition or similar reports filed with state or federal authorities. For purposes of this section, the term ‘deposit’ has the meaning assigned by Section 2[3], Federal Deposit Insurance Act (12 U.S.C. Sec. 1813).”

SECTION 6. This Act takes effect January 1, 1987.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed viva voce vote.

#### SENATE CONCURRENT RESOLUTION 10 WITH HOUSE AMENDMENT

Senator Brooks called S.C.R. 10 from the President's table for consideration of the House amendment to the resolution.

The President laid the resolution and the House amendment before the Senate.

Floor Amendment - Criss

Amend S.C.R. 10 by inserting in the second resolving clause and before “the Republic of Texas Ball sponsors” the following:

“Ms. Cathy Clampit, chair, and”.

The amendment was read.

Senator Brooks moved to concur in the House amendment.

The motion prevailed viva voce vote.

#### SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider the Executive appointments to agencies, boards and commissions. Notice of submission of these names for consideration was given yesterday by Senator Edwards.

Senator Edwards moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

**NOMINEES CONFIRMED**

The following nominees as reported by the Committee on Nominations were confirmed by the following vote: Yeas 29, Nays 0.

Absent: Howard.

Absent-excused: Glasgow.

Members, State Board of Medical Examiners: JOHN C. BAGWELL, M.D., Dallas County; JOHN H. BURNETT, D.O., Rockwall County; CHARLES B. DRYDEN, JR., M.D., Wichita County; N. E. DUDNEY, M.D., Harris County; ARTHUR MILTON JANSAS, SR., M.D., Harris County; CINDY JENKINS, Chambers County; JAMES W. LIVELY, D.O., Nueces County.

Member, Public Utility Commission of Texas: JO CAMPBELL, Travis County.

Members, State Property Tax Board: WILLIAM BENJAMIN MUNSON IV, Grayson County; GERALD "BUDDY" WINN, Brazos County.

District Attorney, 43rd Judicial District, Parker County: AMY ADAMS, Parker County.

**SENATE BILL 26 ON SECOND READING**

On motion of Senator McFarland and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 26**, Relating to the obligation and enforcement of child support; to the appointment of court masters for certain child support cases; and imposing certain duties on the state attorney general; amending the Family Code, as amended, by amending Subsections (h), (i), and (1) and adding Subsections (q) and (r), Section 14.43 and adding Section 14.44 and Subchapter D to Chapter 14.

The bill was read second time.

Senator McFarland offered the following amendment to the bill:

Floor Amendment No. 1

Amend **S.B. 26** by striking all below the enacting clause and substituting in lieu thereof the following:

**SECTION 1.** This Act may be cited as the Child Support Enforcement Improvement Act of 1986.

**SECTION 2.** Section 14.05, Family Code, is amended by amending Subsections (e) and (f) to read as follows:

"(e) Except for good cause shown, on agreement of the parties, or as provided in Subsection (f) of this section, in every proceeding in which periodic payments of child support are ordered, the court shall order that income be withheld from the disposable earnings of the obligor to conform with the provisions of Subchapter B of this chapter. The court shall order that income withheld for child support shall be paid through a court registry, a child support collection office, or the attorney general, unless the court finds that there is good cause to require payments to be made to another person or office. If the court does not order income withholding, an order for support entered or modified on or after January 1, 1987, must contain a provision for income withholding to ensure that withholding may be effected if a delinquency occurs. These orders must be construed to contain this withholding provision even if the provision has been omitted from the written order. In the case

of each obligor against whom an order for support has been issued or modified prior to January 1, 1987, the order is presumed to contain a provision for income withholding procedures to take effect in the event a delinquency occurs without further amendment to the order or future action by the court.

"(f) Except as provided in Sections 14.44 and 14.45 of this code, in [In] any proceeding brought under Part D of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 651 et seq.), the court shall order that income be withheld from the disposable earnings of the obligor and that all child support payments shall be paid directly through the Attorney General of Texas and not through any other registry or agency."

SECTION 3. Subsections (g) and (h), Section 14.09, Family Code, as amended by Sections 12 and 13, Chapter 802, Acts of the 69th Legislature, Regular Session, 1985, are repealed.

SECTION 4. Subsection (i), Section 14.09, Family Code, as added by Section 13, Chapter 802, Acts of the 69th Legislature, Regular Session, 1985, is redesignated as Subsection (d), Section 14.32, Family Code, and amended to read as follows:

"(d) [(i)] The court in which a motion to enforce a child support order under this subchapter [~~section, Section 14.091 of this code, or Rule 308 A, Texas Rules of Civil Procedure,~~] is pending shall give preference to the pending motion in setting a date for a hearing and may not continue or postpone the hearing because of a motion under Section 14.08 of this code to modify the order on which the support obligation is founded."

SECTION 5. Section 14.31, Family Code, is amended to read as follows:

"Section 14.31. PROCEDURE IN ENFORCEMENT PROCEEDINGS.

(a) Proceeding Commenced By Motion. Enforcement proceedings under this subchapter shall be commenced by the filing of a motion to enforce a final [the] order, judgment, or decree.

"(b) Pleading. (1) Contents of Motion. Motions under this subchapter shall be verified as to the truth of the facts alleged by the party seeking enforcement of the court order. The motion shall set out specifically and with particularity the provisions of the final order, decree, or judgment sought to be enforced and, in separate counts, the time, date, and place of each occasion upon which the respondent has not complied with the order, the manner of the noncompliance, and the relief sought by the movant. The movant or the movant's attorney shall sign the motion.

"(2) Joinder of Claims and Remedies. A party seeking enforcement of a final court order under this subchapter may join in the same proceeding, either independently or alternately, as many claims and remedies as he has against another party, whether such claims arise under this chapter, other provisions of this subtitle, or other provisions or rules of law. Claims that may be joined include but are not limited to proceedings to:

"(A) enforce a child support order by contempt under Section 14.40 of this code;

"(B) reduce child support arrearages to judgment under Section 14.41 of this code;

"(C) require a person obligated to support a child to furnish bond or other security under Section 14.42 of this code;

"(D) require withholding from earnings under Section 14.43 or Subchapter C of this chapter;

"(E) enforce a right to possess and have access to a child by contempt under Section 14.50 of this code;

"(F) require a person to furnish bond or other security to ensure compliance with a court order for possession of and access to a child under Section 14.51 of this code;

“(G) transfer the proceeding because venue is improper under Section 11.06 of this code;

“(H) petition for further action concerning a child under Section 11.07 of this code;

“(I) modify an existing order or decree under Section 14.08 of this code;

“(J) petition for a writ of habeas corpus under Section 14.10 of this code; [and]

“(K) recover damages under Chapter 36 of this code;

“(L) initiate procedures for withholding child support from earnings without the necessity of further action by the court under Sections 14.44 and 14.45 of this code; and

“(M) recover under any reciprocal enforcement of support act or interstate income withholding act whether as rendering or responding state.

“(c) Duty of Court on Filing of Motion. On the filing of a motion under this subchapter, the court shall endorse thereon the time, place, and date of the hearing at which the respondent shall appear and respond to the motion. The hearing shall be held no sooner than 10 a.m. of the Monday next after the expiration of 20 days from the date of service, except that if enforcement by contempt under Section 14.40 of this code is the only remedy sought by the movant, the court may direct the respondent to appear on a date not sooner than 10 days from the date of service to show cause why he should not be adjudged in contempt.

“(d) Notice of Motion. A respondent or alleged contemnor is entitled to 10 days’ notice of a proceeding under Rule 308-A of the Texas Rules of Civil Procedure or of a proceeding under this subchapter in which enforcement of child support by contempt, income withholding, or both are the only remedies [contempt under Section 14.40 of this code is the only remedy] sought. In all other proceedings the provisions of the Texas Rules of Civil Procedure applicable to the filing of an original lawsuit shall apply to a motion to enforce under this subchapter. Each party whose rights, privileges, duties, or powers may be affected by the motion to enforce is entitled to receive notice by the service of citation commanding the person to appear by filing a written answer, unless the proceeding is brought under Sections 14.44 and 14.45 of this code. An employer who may be directed [ordered] to withhold income from earnings under Section 14.43 or 14.45 of this code need not be given notice of the proceedings prior to the issuance of an order or writ for income withholding [except as required by that section]. After the filing of an answer, the proceedings shall be conducted in the same general manner as in other civil cases.”

SECTION 6. Section 14.41, Family Code, is amended by amending Subsections (a) and (b) to read as follows:

“(a) Judgment for Arrearages. A periodic child support payment not timely made shall constitute a final judgment for the amount due and owing. On the motion of an obligee or obligor, after notice and hearing, the court shall confirm the amount of child support in arrears and shall render judgment against an obligor for any amount of child support unpaid and owing. The judgment rendered by the court may be subject to a counterclaim or offset as provided by Subsection (c) of this section. The judgment may be enforced by any means available for the enforcement of judgments for debts.

“(b) Time Limitations. The court may not confirm the amount of child support in arrears and may not enter a judgment for unpaid child support payments that were due and owing more than 10 years before the filing of the motion to render judgment under this section. The court retains jurisdiction to enter judgment for past-due child support obligations if a motion to render judgment for the arrearages is filed within two years after:

"(1) the child becomes an adult; or  
"(2) the date on which the child support obligation terminates pursuant to the decree or order or by operation of law."

SECTION 7. Section 14.43, Family Code, is amended to read as follows:  
"Section 14.43. WITHHOLDING FROM EARNINGS FOR CHILD SUPPORT. (a) Duty of Court to Order Income Withholding. Except for good cause shown, or on agreement of the parties, or as provided in Subsection (b) of this section, the court shall enter an order that provides that income be withheld from the disposable earnings of the obligor:

"(1) in every original suit affecting the parent-child relationship in which child support payments are ordered;

"(2) on motion to require income withholding regarding a child support order entered before the effective date of this subchapter; provided that at the time the motion is filed the obligor is shown to have been in arrears for a time period of at least 30 days for some portion of the amount due and [is currently] in arrears for an amount equal to or greater than that due for a one-month period; [or]

"(3) on motion to modify an order entered after the effective date of this subchapter that did not originally order income withheld; provided that the obligor is shown to have been in arrears for a time period of at least 30 days for some portion of the amount due and is currently in arrears for an amount equal to or greater than that due for a one-month period; or

"(4) after a hearing unsuccessfully contesting a notice of delinquency as provided by Section 14.44 of this code in a case involving the delinquency of either a child support order entered before the effective date of this subchapter or after the effective date of this subchapter that did not originally order income withheld. Payment of overdue support after receipt of notice of a hearing as provided by this section shall not be the sole basis for the court to refuse to order withholding from income.

"(b) Title IV Suits. Except as provided in Sections 14.44 and 14.45 of this code, in [In] any proceeding brought under Part D of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 651 et seq.), the court shall order that income be withheld from the disposable earnings of the obligor and that all child support payments shall be paid directly through the Attorney General of Texas and not through any other registry or agency.

"(c) Payment. The court shall order that income withheld for child support be paid through and promptly distributed by a court registry, a child support collection office, or the attorney general, unless the court finds that there is good cause to require payments to be made to another person or office.

"(d) Withholding for Arrearages. In addition to income withheld for the current support of a child, in appropriate circumstances and in accordance with the guidelines established for child support payments as provided in Subsection (a) of Section 14.05 [14.05-(2)] of this code, the court shall enter an order that income be withheld from the disposable earnings of the obligor to be applied toward the liquidation of any child support arrearages. The additional amount to be withheld to be applied towards arrears should be sufficient to fully discharge those arrears in not more than two years or add 20 percent to the amount of the current monthly support order, whichever is less, consistent with the limitations on the maximum amount that may be withheld from earnings as provided by Subsection (f) of this section. If the court finds that such a repayment schedule would cause the obligor, the obligor's family, or the children for whom the support is due to suffer unreasonable hardship, the court may extend the repayment period for a reasonable length of time.

"(e) Contents of Order. An order withholding income shall state:

"(1) the style, docket number, and court having continuing jurisdiction of the suit;



“(2) the name, address, and, if available, the social security number of the obligor;

“(3) the amount and duration of the child support payments;

“(4) the name, address, and, if available, the social security numbers of the child and the obligee;

“(5) the name and address of the person or agency to whom the payments shall be made; and

“(6) any other matter deemed necessary to effectuate the order.

“The court shall order the obligor to notify the court promptly of any change affecting the order and that the ordered amount be paid to the attorney general, the court registry, or a child support collection office serving the court, unless the court finds there is good cause to require that payments be made directly to the obligee or to another person or office.

“(f) Amount Withheld from Earnings. The court shall enter an order directing that any employer of the obligor withhold from the obligor’s disposable earnings the amount specified in the order, up to a ~~[the]~~ maximum amount of 50 percent of the obligor’s disposable earnings ~~[permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. Section 1673(b)]~~.

“(g) Issuance of Order. On the request of the prosecuting attorney, the attorney general, ~~the obligor~~, or the obligee, the clerk of the court shall cause a certified copy of the order withholding income from earnings to be delivered to the obligor’s current employer or to any subsequent employer of the obligor. In addition, the clerk shall attach a copy of this section to the order for the information of the employer.

“(h) Notice and Effective Date of Order. The employer shall begin to withhold income in accordance with ~~an [the]~~ order ~~issued under this section or a writ issued under Section 14.45 of this code~~ no later than the first pay period which occurs 14 days following the date on which the order ~~or writ~~ was ~~delivered to the employer [served]~~ and shall continue to withhold income as long as the obligor is employed by the employer. Delivery of the order ~~or writ~~ to the employer shall be by certified or registered mail, return receipt requested, ~~to the person authorized to receive service of process in civil cases generally, or to a person designated by the employer to receive notices of delinquency by written notice to the clerk of the appropriate court, or by the service of citation as provided by the Texas Rules of Civil Procedure.~~ After the effective date, the ~~[ordered]~~ amount to be withheld~~[less any administrative fee,]~~ shall be remitted to the person or office named in the order on each regular due date or pay date.

“(i) Fees. The employer may deduct ~~[from the ordered amount]~~ an administrative fee of not more than \$5 per month ~~from the obligor’s disposable earnings in addition to the amount to be withheld as child support [to be credited towards the obligor’s payment of support]~~. The clerk of the court may charge the requestor a reasonable fee for each order delivered to an employer by mail, not to exceed \$5.

“(j) Hearing Requested by Employer. Within 20 days after ~~delivery [service]~~ of ~~an [the]~~ order ~~or writ of income withholding~~, the employer may make a motion for hearing on the applicability of the order ~~or writ~~ to the employer. The hearing shall be held within 15 days following the filing of the motion. ~~The [Pending the hearing, the]~~ order ~~or writ~~ remains binding and payments shall continue to be made ~~pending further order of [unless otherwise ordered by]~~ the court.

“(k) Priority of Withholding. An order made under this section ~~or a writ issued under Section 14.45 of this code~~ has priority over any garnishment, attachment, execution, or other assignment or order affecting disposable earnings.

“(l) Liability and Obligation of Employer for Payments. An employer receiving ~~[served with]~~ an order under this section ~~or a writ under Section 14.45~~ who

complies with the order or writ is not liable to the obligor for the amount of income withheld and paid as provided in the order or writ. An employer who does not comply with the order or writ is liable to the obligee for the amount not paid in compliance with the order or writ and for reasonable attorney's fees and court costs. An employer receiving ~~[served with]~~ two or more orders or writs on any named obligor shall comply with every order or writ to the maximum extent possible [all orders]. If the total amount in the orders or writ exceeds the maximum amount allowable to be withheld under this section, the employer shall pay an equal amount towards the current support portion of ~~[on]~~ all orders or writs until each order is [the orders are] individually complied with, and thereafter equal amounts on the arrearage portion of all orders until each order or writ is complied with, or until the maximum total amount of allowable withholding under Subsection (f) of this section is reached, whichever occurs first. If an employer is ordered to withhold from more than one obligor, the employer may combine the withheld amounts from the obligors' wages and make a single payment to each appropriate agency requesting withholding if the employer separately identifies the amount of the payment that is attributable to each obligor.

"(m) Employer's Penalty for Discriminatory Hiring or Discharge. An employer may not use an order or writ authorized by this subchapter as grounds in whole or part for the termination of employment or for any other disciplinary action against an employee. An employer may not refuse to hire an employee because of an order or writ withholding income. If an employer intentionally discharges an employee in violation of this subsection, the employer continues to be liable to the employee for current wages and other benefits and for reasonable attorney's fees and court costs incurred by the employee in enforcing the employee's rights under this subsection. An action under this subsection may be brought only by the employee.

"(n) Fine for Employers. In addition to the remedies provided by Subsections (l) and (m) of this section or by any other remedy provided by law, an employer who knowingly violates the provisions of those subsections shall be [is] subject to a fine not to exceed \$50.

"(o) Notice of Termination of Employment and of New Employment. If and when an obligor terminates employment with an employer who has been withholding income, both the obligor and the employer shall notify the court and the obligee of that fact within seven days of the termination of employment and shall provide the obligor's last known address and the name and address of the obligor's new employer, if known. The obligor has a continuing duty to inform any subsequent employer of the income withholding order or writ after obtaining employment.

"(p) Form of Order Withholding Income. The attorney general shall promulgate by regulation a form for the order withholding income that shall be sufficient if entered by a court in substantially the prescribed manner. The attorney general may promulgate additional forms to facilitate the efficient collection of child support and to promote the administration of justice for all parties.

"(q) Reduction or Termination of Withholding. In any proceeding brought under Part D of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 651 et seq.), the attorney general shall establish procedures for the reduction in or termination of withholding from income on the liquidation of an arrearage or the termination of the obligation of support. The procedures must provide that the payment of overdue support may not be used as the sole basis for terminating withholding."

SECTION 8. Chapter 14, Family Code, is amended by adding Sections 14.44 and 14.45, to read as follows:

"Section 14.44. NOTICE OF DELINQUENCY IN COURT-ORDERED CHILD SUPPORT. (a) Notice of Delinquency. A proceeding may be initiated

under Part D of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 651 et seq.), if a delinquency allegedly occurs in any previously ordered child support in an amount equal to or greater than the total support due for one month, whether the order was rendered prior to the effective date of this subchapter or income withholding was not ordered as provided by an exception contained in Subsection (a) of Section 14.05 and Section 14.43 of this code or by any other applicable law. The attorney general shall prepare and file with the court of continuing jurisdiction a verified notice of delinquency and deliver notice of delinquency to the obligor by hand delivery by a person designated by the attorney general or by first class or certified mail, return receipt requested, addressed to his last known address or place of employment. Upon mailing or hand delivery of the notice, the attorney general shall file with the court a certificate stating the name, address, and date on which the mailing or hand delivery was made. In the event that the notice of delinquency cannot be delivered in the manner described, the obligor may be served by the means prescribed for service of citation in civil cases generally. Payment of overdue support after the receipt of a notice of delinquency shall not be the sole basis for failure to issue and deliver a writ of withholding.

“(b) Contents of Notice. The notice of delinquency to the obligor shall:

“(1) state the amount of monthly support due, the amount of overdue support that is owed as an arrearage or anticipated arrearage, and the amount of wages that will be withheld by a writ of income withholding;

“(2) contain a statement that the withholding applies to each current or subsequent employer or period of employment;

“(3) contain a statement that if the obligor does not contest the withholding within 10 days after the receipt of the notice of delinquency, the obligor’s employer will be notified to begin the withholding;

“(4) describe the procedures for contesting the issuance and delivery of a writ of withholding;

“(5) contain a statement that if the obligor contests the withholding, he will be afforded an opportunity to present his case to the court within 30 days of receipt of the notice of contest;

“(6) state that the sole ground for successfully contesting the issuance of a withholding notice is a mistake of fact, which means a dispute concerning the identity of the obligor or the existence or amount of the arrearage;

“(7) describe the actions that the attorney general will take if the obligor contests the withholding, including the procedures for suspending issuance of a writ on withholding income; and

“(8) include with the notice of delivery a suggested form for the motion to stay issuance and delivery of the writ of withholding that the obligor may file with the clerk of the appropriate court.

“(c) Staying Issuance and Delivery of a Writ of Income Withholding. The obligor may stay the issuance and delivery of a writ of income withholding on his current or subsequent employer by filing a motion to stay issuance and delivery with the clerk of court with jurisdiction of the matter within 10 days of the date that the notice of delinquency is received by him. The grounds for granting the motion to stay issuance and delivery shall be limited to a dispute concerning the identity of the obligor or the existence or the amount of the arrearage. The obligor shall verify that statements of fact in the motion to stay issuance of the writ are true and correct. The filing of a motion to stay issuance and delivery within the 10 days required under this subsection prohibits the clerk of court from delivering the writ of income withholding to any employer of the obligor pending a hearing as provided by this section and Section 14.43 of this code.

“(d) Hearing on Contested Delinquency. When a petition to stay issuance and delivery has been filed, a hearing on the motion must be held within 30 days of its

filing. The obligor and obligee, or their authorized representatives, must be notified by the clerk of court of the date, time, and place of the hearing. The court must decide the contested delinquency and either enter an order for income withholding pursuant to Section 14.43 of this code or deny the requested relief within 45 days of the date that the notice of delinquency was received by the obligor. If movant is pleading repeated violations of the court order, it is permissible to plead anticipated future violations of a similar nature that may arise between the filing of the motion or the notice of delinquency and the date of the hearing or the issuance of a writ of withholding from earnings for child support. Any defect in pleadings will be considered waived unless respondent specially excepts in writing and cites with particularity the alleged defect, obscurity, or other ambiguity in the motion for enforcement. Any such defensive pleading must be heard by the court before hearing the motion to enforce. If any exceptions are sustained by the court, the movant shall be given an opportunity to replead and hearing continued to a date certain without the requirement of additional service.

“(e) Failure to Receive Notice of Delinquency. Within 30 days after the effective date of a writ of withholding on the obligor’s employer, the obligor may file an affidavit with the court that a motion to stay issuance and delivery was not timely filed because the notice of delinquency was not received and that grounds exist for a motion to stay issuance and delivery as stated in Subsection (c) of this section. Concurrently, the obligor may file a motion to withdraw the writ of income withholding and to hold the hearing provided by Subsection (d) of this section and by Section 14.43 of this code. Income withholding shall not be interrupted until after the hearing at which the court enters an order granting the relief sought by the obligor based on the limited grounds for a motion to stay issuance and delivery.

“(f) Form of Notice of Delinquency and Ancillary Forms. The attorney general shall promulgate by regulation a form for the notice of delinquency that shall be delivered to the obligor in the prescribed manner. The attorney general shall also promulgate by regulation additional forms in order to facilitate the efficient collection of child support and to promote the administration of justice for all parties. The appropriate forms shall be made readily available to obligors who choose to proceed without representation by an attorney.

“Section 14.45. WRIT OF WITHHOLDING FROM EARNINGS FOR CHILD SUPPORT. (a) Issuance and Delivery. No sooner than 20 days following the mailing of a notice of delinquency to the obligor by first class mail or 11 days after receipt of a notice of delinquency by the obligor by hand delivery or certified mail, if no petition to stay issuance of the writ has been filed the attorney general shall file a request with the clerk of court to issue a writ of income withholding. The writ shall be delivered by certified mail, return receipt requested, to the employer of the obligor to the person authorized to receive service of process in civil cases generally, or to a person designated by the employer to receive writs of withholding by written notice to the clerk of the appropriate court, or by the service of citation as provided by the Texas Rules of Civil Procedure. The writ shall be issued and mailed by the clerk not later than the second working day after the request is filed.

“(b) Contents. Except as provided in Subsection (c) of this section, the writ of income withholding shall direct the employer to withhold from the obligor’s disposable income for current child support and child support arrearage in a manner identical to the terms provided by Section 14.43 of this code, as far as is practical.

“(c) Withholding for Arrearages. In addition to withholding for current child support, the writ of income withholding shall require an additional amount to be withheld to be applied towards the arrearage sufficient to fully discharge those arrears in not more than two years or add 20 percent of the amount of current monthly support order, whichever is less. However, if the attorney general finds that the obligor, the obligor’s family, or the children for whom the support is due would

suffer unreasonable hardship from such a schedule of repayment, the attorney general may request an extended repayment schedule to be instituted by the writ.

“(d) Hearing. Upon receipt of a writ of income withholding, the employer of the obligor may request a hearing in the same manner and according to the same terms as provided by Subsection (j) of Section 14.43 of this code.

“(e) Penalties for Noncompliance. In the absence of a hearing requested by the employer as provided in this section, failure to comply with the terms of a writ of income withholding shall subject an employer to the same liabilities and penalties as provided by Section 14.43 of this code applicable to an employer’s failure to comply with an order of income withholding.

“(f) Modifications to Withholding. The attorney general shall cause the clerk to issue and to deliver a writ of withholding to the obligor’s employer reflecting any modification or changes in the amount to be withheld from the obligor’s disposable earnings or the termination of withholding.

“(g) Form of Writ of Income Withholding. The attorney general shall promulgate by regulation a form for the writ of income withholding that shall be sufficient when issued by the clerk and delivered to the employer of the obligor in substantially the prescribed manner.”

SECTION 9. Subsection (b), Section 14.61, Family Code, is amended by amending Subdivision (4) to read as follows:

“(4) ‘Attorney General’ means the Child Support Enforcement Division of the Office of the Attorney General of Texas charged with the income withholding function, and ‘Agency’ means the Texas Department of Human Services [Resources] and, when the context requires, means either the court or agency of any other jurisdiction with functions similar to those defined in this subchapter, including the issuance and enforcement of support orders.”

SECTION 10. Section 21.03, Family Code, is amended by amending Subdivisions (6) and (15) to read as follows:

“(6) ‘Duty of support’ includes any duty of support imposed or imposable by law, including duties imposed by Chapter 12 or 13 of this code, or by any court order, decree, or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial separation, separate maintenance, or otherwise, but shall not include alimony for a former wife except in proceedings brought pursuant to Part D of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 651 et seq.), requiring that an alimony award is entitled to interstate enforcement if awarded to an obligee with whom the absent parent’s child is living, and only if the support obligation established with respect to the child is being enforced.”

“(15) ‘Prosecuting attorney’ means the criminal district attorney, an attorney designated by the court, or the county attorney, or the district attorney where there is no criminal district attorney, attorney designated by the court, the attorney general, or county attorney.”

SECTION 11. Section 21.21, Family Code, is amended to read as follows:

“Section 21.21. CHOICE OF LAW. Duties of support applicable under this chapter are those imposed or imposable under the laws of any state where the obligor was present during the period for which support is sought; but shall not include alimony for a former wife except in proceedings brought pursuant to Part D of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 651 et seq.), requiring that an alimony award is entitled to interstate enforcement if awarded to an obligee with whom the absent parent’s child is living, and only if the support obligation established with respect to the child is being enforced. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.”

SECTION 12. Chapter 14, Family Code, is amended by adding Subchapter D to read as follows:

**"SUBCHAPTER D. EXPEDITED PROCESS TO ESTABLISH OR  
ENFORCE  
SUPPORT OBLIGATIONS IN TITLE IV-D CASES**

"Section 14.80. DEFINITIONS. In this subchapter:

"(1) 'Secretary' means the Secretary of Health and Human Services of the United States.

"(2) 'Title IV-D case' means an action to establish or enforce support obligations brought under Part D of Title IV of the Federal Social Security Act (42 U.S.C. Section 651 et seq.).

"Section 14.81. TIME FOR DISPOSITION. (a) Title IV-D cases must be disposed of within the following time periods:

"(1) 90 percent within three months;

"(2) 98 percent within six months; and

"(3) 100 percent within one year.

"(b) Title IV-D cases shall be given priority over other cases.

"(c) A clerk or judge shall not restrict the number of Title IV-D cases which are filed or heard in the courts.

"Section 14.82. APPOINTMENT OF MASTER. (a) The presiding judge of each administrative judicial region, after conferring with the judges of courts in the region having jurisdiction of Title IV-D cases, shall determine which courts require the appointment of a full-time or part-time master to complete each Title IV-D case within the time specified in Section 14.81 of this code. The presiding judge may limit the appointment to a specified time period and may terminate an appointment at any time. A master appointed under this subchapter may be appointed to serve more than one court.

"(b) If the presiding judge determines that a court requires a master, the presiding judge shall appoint a master. If a master is appointed, the judge of the court shall refer all Title IV-D cases to the master. A master may be appointed to serve more than one court.

"(c) The provisions of Subchapter A, Chapter 54, Government Code, and Section 1, Chapter 851, Acts of the 69th Legislature, Regular Session, 1985, relating to the qualifications, powers, and immunity of a master apply to a master appointed under this section.

"(d) Except as provided in this section, the provisions of Subchapter A, Chapter 54, Government Code, and Section 1, Chapter 851, Acts of the 69th Legislature, Regular Session, 1985, that apply to a party or witness before a master, papers transmitted to the judge by a master, judicial action on the master's report, hearings before the judge, appeal, the effect of the master's report pending appeal, jury trial, the attendance of bailiff, and the presence of a court reporter apply to a master appointed under this section.

"(e) On motion of a party, the master may refer a complex case back to the judge for final disposition after the master has recommended temporary support.

"(f) The master shall take testimony and establish a record in all Title IV-D cases.

"(g) If the court determines that the nonprevailing party is able to pay a portion or all of the costs of a master, the court shall tax that amount as costs against the nonprevailing party. No costs may be taxed against the attorney general.

"Section 14.83. COMPENSATION. (a) A master appointed under this subchapter is entitled to a salary to be determined by the presiding judge in a judicial district comprised of more than one county or by the commissioners court in a judicial district comprised of only one county. Such salary may not exceed 90 percent of the salary paid to a district judge as set by the state appropriations act.

"(b) The master's salary shall be paid from the county fund available for payment of officers' salaries or from funds available from the state and federal government as provided in Subsection (e) of this section.

“(c) The presiding judge in a judicial district comprised of more than one county or the commissioners court in a judicial district comprised of only one county may also appoint such other personnel as may be needed to implement and administer the provisions under this subchapter. The salary of such personnel shall be consistent with the salary schedules of the county in which the person serves. The salary shall be paid from the county fund available for payment of officers’ salaries or from funds available from the state and federal government as provided in Subsection (e) of this section.

“(d) Costs and salaries associated with masters and personnel appointed under this section shall be considered administrative expenses of the judicial region and paid in accordance with other administrative costs.

“(e) The presiding judge and counties may contract with the attorney general for available federal funds under Title IV-D to reimburse such costs and salaries and may also use available state funds and public or private grants. The presiding judge and the office of the attorney general shall act and are authorized to take any action necessary to maximize the amount of federal funds available under the Title IV-D program.

“Section 14.84. APPOINTMENT OF MASTER REQUIRED. The presiding judge shall appoint a master for each court handling Title IV-D cases for which the state has not been granted an exemption from the expedited process of Title IV-D cases required by federal law.

“Section 14.85. EXEMPTION. (a) If a presiding judge of an administrative judicial region does not require the appointment of a master for a court, the presiding judge shall provide to the attorney general the information required by the secretary to grant the court an exemption from the expedited process requirement for Title IV-D cases. On receipt of sufficient information, the attorney general shall immediately apply to the secretary for an exemption from the expedited process requirement for Title IV-D cases for the district court. The attorney general shall promptly notify the presiding judge of the administrative judicial region in which the court is located of any information received from the secretary concerning the application for the exemption.

“(b) If the secretary does not grant an exemption for a court or if the secretary revokes an exemption for a court, the presiding judge of the administrative judicial region in which the court is located shall appoint a master as prescribed by Section 14.82 of this code within 30 days from receiving notice that the exemption was denied or revoked.

“(c) The presiding judge of an administrative judicial region shall require each court within the judicial region to provide information and data to the presiding judge, the office of court administration, and the office of the attorney general regarding the processing of Title IV-D cases necessary to:

“(1) establish the need for an exemption as provided by Subsection (a) of this section; and

“(2) comply with federal law.

“(d) The office of the attorney general and the office of court administration shall provide such assistance as may be required by the presiding judge in obtaining and storing the information and data provided under this section.

“(e) Any information or data required under this section may be provided as required by the presiding judge.

“Section 14.86. RULES AND PROCEDURES. The attorney general shall by rule promulgate any forms and procedures necessary to comply fully with the intent of this subchapter.”

**SECTION 13.** Not later than the 10th day after the day on which this Act takes effect, the attorney general shall apply to the Secretary of Health and Human Services of the United States for a one-year exemption from implementation of

federal law requiring an expedited process for actions to establish or enforce support obligations brought under Part D of Title IV of the Federal Social Security Act (42 U.S.C. Section 651 et seq.).

SECTION 14. This Act takes effect January 1, 1987.

SECTION 15. The importance of this legislation to improve the collection of child support and bring Texas law into full compliance with the mandates of the federal Child Support Enforcement Amendments of 1984 and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Farabee offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend S.B. 26 by adding two new sections, appropriately numbered, to read as follows:

SECTION . TRANSFER. On August 31, 1986, the comptroller shall transfer \$500,000. of the unobligated balance in the criminal justice planning fund to the Office of the Attorney General for use in Item 11.c, Program Operations - Child Support Enforcement.

SECTION . APPROPRIATION. Notwithstanding Article I, Chapter 980, Acts of the 69th Legislature, Regular Session, 1985, there is hereby appropriated to the Office of the Attorney General for use in Item 11.c, the amount of \$500,000., and any federal matching funds received by the state, for the implementation of state and federal law concerning the collection and enforcement of child support obligations pursuant to Part D of Title IV of the Federal Social Security of the Federal Social Security Act (42 U.S.C. Section 651 et. seq.)

The amendment was read and was adopted viva voce vote.

Floor Amendment No. 1 as amended was adopted viva voce vote.

On motion of Senator McFarland and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

#### SENATE BILL 26 ON THIRD READING

Senator McFarland moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 26 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent: Howard.

Absent-excused: Glasgow.

The bill was read third time and was passed viva voce vote.

#### MOTION TO PLACE SENATE BILL 4 ON SECOND READING

Senator Leedom moved to suspend the regular order of business to take up for consideration at this time:

S.B. 4, Relating to the allocation of interest on state funds; amending Section 3.042, Article 4393-1, Revised Civil Statutes.



The motion was lost by the following vote: Yeas 13, Nays 16.

Yeas: Blake, Brown, Harris, Henderson, Jones, Krier, Leedom, McFarland, Montford, Sarpalius, Sharp, Sims, Traeger.

Nays: Barrientos, Brooks, Caperton, Edwards, Farabee, Green, Kothmann, Lyon, Mauzy, Parker, Parmer, Santiesteban, Truan, Uribe, Washington, Whitmire.

Absent: Howard.

Absent-excused: Glasgow.

#### COMMITTEE SUBSTITUTE HOUSE BILL 27 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 27**, Relating to funding of the judicial branch of government, to certain fees and costs collected by clerks and officers of certain constitutional and statutory courts and to the disposition and appropriation of those fees and costs.

The bill was read second time.

Senator McFarland offered the following amendment to the bill:

Amend **C.S.H.B. 27** in the following manner:

1. In the introductory passage to SECTION 1, change "Sections" to "Section" and delete "and 21.007".
2. Insert the following immediately at the end of Sec. 21.006 (to follow "state.") and immediately before Sec. 21.007:

SECTION 2: If Senate Bill 26 is enacted by the Sixty-Ninth Legislature, Second Called Session, and becomes law, Chapter 21, Government Code, is amended by adding Sec. 21.007 to read as follows:

3. Renumber subsequent SECTIONS 2 through 13 of the bill accordingly.
4. Add the following language at the end of Subsection (e):

Funds shall be allocated among the various administrative judicial regions taking into consideration the intent of the legislature that the amount of federal funds available under the Title IV-D program of the Social Security Act, as amended, for the collection and enforcement of child support obligations shall be maximized. The presiding judges are given the power to contract with the Office of the Attorney General and local political subdivisions as may be necessary to achieve this intent.

5. Add the following language at the beginning of Subsection (f):

After approval of an application by the presiding judges, the applicant may be directly reimbursed by the comptroller from the child support and court management account for expenses incurred pursuant to the approved application in accordance with this Act.

6. Change SECTION 9 (renumbered SECTION 10 by this amendment) to read as follows:

SECTION 10. TRANSFER. If Senate Bill 26 is enacted by the Sixty-Ninth Legislature, Second Called Session, and becomes law, the comptroller shall transfer \$1.2 million from the criminal justice fund on

August 31, 1986 to the child support and court management account of the judicial fund.

7. In SECTION 10 (renumbered SECTION 11 by this amendment), strike "For" at the beginning of the section and insert the following language in lieu thereof:

If Senate Bill 26 is enacted by the Sixty-Ninth Legislature, Second Called Session, and becomes law, for

The amendment was read and was adopted viva voce vote.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

#### RECORD OF VOTES

Senators Mauzy and Washington asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### COMMITTEE SUBSTITUTE HOUSE BILL 27 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 27 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Green, Harris, Henderson, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire.

Nays: Mauzy, Washington.

Absent: Howard.

Absent-excused: Glasgow.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 2. (Same as previous roll call)

#### HOUSE BILL 40 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 40**, Relating to the service retirement of certain persons from the employee class of the Employees Retirement System of Texas.

The bill was read second time.

Senator Farabee offered the following amendment to the bill:

Amend **H.B. 40** by deleting "August 31, 1987," in Subsection (c) and substituting in lieu thereof "May 31, 1987," (See page 1, line 17, Committee Printing)

The amendment was read and was adopted viva voce vote.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

**HOUSE BILL 40 ON THIRD READING**

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 40** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent: Howard.

Absent-excused: Glasgow.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent: Howard.

Absent-excused: Glasgow.

**COMMITTEE SUBSTITUTE SENATE JOINT RESOLUTION 1  
ON SECOND READING**

Senator Uribe moved to suspend the regular order of business to take up for consideration at this time:

**C.S.S.J.R. 1**, Proposing a constitutional amendment relating to the establishment of a state lottery.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Barrientos, Brooks, Caperton, Farabee, Harris, Henderson, Kothmann, Krier, McFarland, Mauzy, Montford, Parmer, Santiesteban, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Nays: Blake, Brown, Edwards, Green, Jones, Leedom, Lyon, Parker, Sarpalius.

Absent: Howard.

Absent-excused: Glasgow.

The resolution was read second time.

**POINT OF ORDER**

Senator Blake raised a Point of Order against the consideration of **C.S.S.J.R. 1** stating that Article III, Section 33 of the Constitution and Senate Rule 50 provide that all revenue-raising bills originate in the House of Representatives.

The President overruled the Point of Order stating that, generally, a bill for raising revenue is a bill the primary purpose of which is to levy a tax on the public to defray the actual costs of the government and for which the public does not receive a specific benefit in return. If the primary purpose of a bill does not involve raising revenue, but the bill contains a provision that incidentally raises revenue, the bill is not a revenue-raising bill within the meaning of Article III, Section 33 of the Constitution.

**POINT OF ORDER**

Senator Sarpalius raised the Point of Order that the provisions of **C.S.S.J.R. 1** are not within the scope of the Call issued by the Governor for the Second Called Session.

The President overruled the Point of Order stating that the subject submitted by the Governor is legislation concerning State finance and necessarily includes

revenue enhancement measures as well as reduced spending. It follows that a measure which enhances revenue deals with the subject of State finance in that the effect is to raise money.

Senator Uribe offered the following amendment to the resolution:

Amend C.S.S.J.R. 1 by striking all below the resolving clause and substituting the following:

SECTION 1. Article III, Section 47, of the Texas Constitution is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The Legislature shall pass laws prohibiting private lotteries and gift enterprises in this State other than bingo games as authorized by Subsection (b) of this section.

(d) The Legislature by law may establish a lottery to be operated by the State. Proceeds from the lottery, after deducting prizes and expenses, may only be used for public purposes as provided by the Legislature.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 4, 1986. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing a state lottery the revenues of which must be used for public purposes."

The amendment was read and was adopted viva voce vote.

The resolution as amended was passed to engrossment by the following vote: Yeas 20, Nays 9.

Yeas: Barrientos, Brooks, Caperton, Farabee, Harris, Henderson, Kothmann, Krier, McFarland, Mauzy, Montford, Parmer, Santiesteban, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Nays: Blake, Brown, Edwards, Green, Jones, Leedom, Lyon, Parker, Sarpalius.

Absent: Howard.

Absent-excused: Glasgow.

#### COMMITTEE SUBSTITUTE SENATE BILL 2 ON SECOND READING

Senator Uribe moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 2, Relating to the establishment and operation of a state lottery; providing penalties.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Barrientos, Brooks, Caperton, Farabee, Harris, Henderson, Kothmann, Krier, McFarland, Mauzy, Montford, Parmer, Santiesteban, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Nays: Blake, Brown, Edwards, Green, Jones, Leedom, Lyon, Parker, Sarpalius.

Absent: Howard.

Absent-excused: Glasgow.

The bill was read second time.

**POINT OF ORDER**

Senator Blake raised a Point of Order against the consideration of **C.S.S.B. 2** stating that Article III, Section 33 of the Constitution and Senate Rule 50 provide that all revenue-raising bills originate in the House of Representatives.

The President overruled the Point of Order stating that, generally, a bill for raising revenue is a bill the primary purpose of which is to levy a tax on the public to defray the actual costs of the government and for which the public does not receive a specific benefit in return. If the primary purpose of a bill does not involve raising revenue, but the bill contains a provision that incidentally raises revenue, the bill is not a revenue-raising bill within the meaning of Article III, Section 33 of the Constitution.

**POINT OF ORDER**

Senator Sarpalius raised the Point of Order that the provisions of **C.S.S.B. 2** are not within the scope of the Call issued by the Governor for the Second Called Session.

The President overruled the Point of Order stating that the subject submitted by the Governor is legislation concerning State finance and necessarily includes revenue enhancement measures as well as reduced spending. It follows that a measure which enhances revenue deals with the subject of State finance in that the effect is to raise money.

**(Senator Krier in Chair)**

Senator Uribe offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 2** as follows:

- (1) On page 1, between lines 24 and 25, add the following:
- (5) "Commission" means the State Lottery Commission.
- (2) Insert a new Section 3 to read as follows and renumber subsequent sections accordingly:

**SECTION 3. COMMISSION ESTABLISHED.** (a) The State Lottery Commission is an agency of the state.

(b) The commission consists of the comptroller of public accounts, the director of the Department of Public Safety, the state treasurer, and two public members appointed by the governor with the advice and consent of the senate.

(c) The members appointed by the governor serve terms of two years, with the term of one member expiring on January 31 of each year.

(d) The commission shall designate one of its members as chairman of the commission.
- (3) Amend current Section 3(b) by striking "comptroller" each time it appears and substituting "commission".
- (4) Amend current Section 3(b) by striking "comptroller's" each time it appears and substituting "commission's".
- (5) On page 1, line 50, strike "comptroller's" and substitute "commission's".
- (6) Amend current Section 4(c) by striking "comptroller" each time it appears and substituting "commission".
- (7) On page 3, line 34, strike "comptroller" and substitute "commission".

(8) In current Section 6, strike "comptroller" each time it appears and substitute "commission".

(9) On page 5, line 10, strike "division" and substitute "commission".

(10) On page 6, line 50, strike "division" and substitute "commission".

(11) On page 7, line 52, strike "comptroller" and substitute "commission".

(12) On page 7, lines 62, 66, and 68, strike "comptroller" and substitute "commission".

(13) On page 8, strike lines 8 and 9 and substitute "(b) of this section may be transferred to a separate fund in the state treasury."

(14) On page 8, line 35, insert after the comma "the State Lottery Commission,".

(15) Insert a new section appropriately numbered to read as follows:

SECTION \_\_. INITIAL APPOINTMENTS. In making the initial appointments to the commission the governor shall designate one member for a term expiring on January 31, 1988, and one member for a term expiring on January 31, 1989.

The amendment was read and was adopted viva voce vote.

Senator McFarland offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 2 by deleting Section 24 thereof and re-numbering each succeeding Section appropriately.

McFARLAND  
LYON

The amendment was read and was adopted viva voce vote.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.S.B. 2, Section 4, by adding the following:

(e) The director may authorize the purchase of advertisements in any media to promote the lottery, but any advertisement must prominently display the estimated odds of winning a prize in the given game being advertised. If the advertisement is not advertising a single game, the advertisement must prominently display the estimated odds of winning a prize in all lottery games operated by the division. The estimated odds must be based on reasonable projections and past experience.

The amendment was read.

On motion of Senator Uribe, the amendment was tabled by the following vote: Yeas 22, Nays 7.

Yeas: Barrientos, Brooks, Brown, Caperton, Farabee, Harris, Henderson, Kothmann, Krier, Lyon, McFarland, Mauzy, Montford, Parmer, Santiesteban, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Nays: Blake, Edwards, Green, Jones, Leedom, Parker, Sarpalius.

Absent: Howard.

Absent-excused: Glasgow.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 4

Amend C.S.S.B. 2, Section 8, by deleting the following:

(e) ~~Notwithstanding this section, a person 18 years of age or older may purchase a lottery ticket or share to give as a gift to another person, including a person under 18 years of age. If a person under 18 years of age directly purchases a lottery ticket or share, the person may not receive a prize and the prize money otherwise payable on the ticket or share is treated as an unclaimed prize as provided by this Act.~~

The amendment was read.

On motion of Senator Uribe, the amendment was tabled by the following vote: Yeas 20, Nays 9.

Yeas: Barrientos, Brooks, Caperton, Farabee, Harris, Henderson, Kothmann, Krier, McFarland, Mauzy, Montford, Parmer, Santiesteban, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Nays: Blake, Brown, Edwards, Green, Jones, Leedom, Lyon, Parker, Sarpalius.

Absent: Howard.

Absent-excused: Glasgow.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.S.B. 2, Section 15, by deleting Subsection (e).

The amendment was read.

On motion of Senator Sarpalius and by unanimous consent, the amendment was withdrawn.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 6

Amend C.S.S.B. 2 by deleting in all applicable sections the phrase “under 18 years of age” and substituting the phrase “under the age necessary to purchase alcoholic beverages in this state”.

The amendment was read.

Senator Uribe moved to table the amendment.

The motion to table failed by the following vote: Yeas 13, Nays 16.

Yeas: Barrientos, Brooks, Caperton, Kothmann, Krier, Mauzy, Montford, Santiesteban, Sharp, Sims, Traeger, Uribe, Whitmire.

Nays: Blake, Brown, Edwards, Farabee, Green, Harris, Henderson, Jones, Leedom, Lyon, McFarland, Parker, Parmer, Sarpalius, Truan, Washington.

Absent: Howard.

Absent-excused: Glasgow.

Question recurring on the adoption of Floor Amendment No. 6, the amendment failed of adoption by the following vote: Yeas 9, Nays 20.

Yeas: Blake, Brown, Edwards, Green, Jones, Leedom, Parker, Sarpalius, Sharp.

Nays: Barrientos, Brooks, Caperton, Farabee, Harris, Henderson, Kothmann, Krier, Lyon, McFarland, Mauzy, Montford, Parmer, Santiesteban, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Absent: Howard.

Absent-excused: Glasgow.

On motion of Senator Uribe and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by the following vote: Yeas 20, Nays 9.

Yeas: Barrientos, Brooks, Caperton, Farabee, Harris, Henderson, Kothmann, Krier, McFarland, Mauzy, Montford, Parmer, Santiesteban, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Nays: Blake, Brown, Edwards, Green, Jones, Leedom, Lyon, Parker, Sarpalius.

Absent: Howard.

Absent-excused: Glasgow.

#### SENATE RULE 103 SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Economic Development might consider S.C.R. 14 at 9:00 o'clock a.m. tomorrow.

#### MEMORIAL RESOLUTIONS

S.R. 61 - By Glasgow: Memorial resolution for Richard H. Moore, Sr.

S.R. 62 - By Glasgow: Memorial resolution for Mrs. Nelda Shirlene Patison.

S.R. 63 - By Glasgow: Memorial resolution for Goyne A. "Jack" Robason.

S.R. 64 - By Glasgow: Memorial resolution for D. Rockwell.

S.R. 65 - By Glasgow: Memorial resolution for E. F. Crites, Sr.

S.R. 66 - By Glasgow: Memorial resolution for Jon N. Sandvold.

S.R. 67 - By Glasgow: Memorial resolution for Luther Thurman McClung.

S.R. 68 - By Glasgow: Memorial resolution for Mrs. Marie Bronstad Rohne.

S.R. 69 - By Glasgow: Memorial resolution for Morgan W. "Pappy" Salmon.

S.R. 70 - By Glasgow: Memorial resolution for Mrs. Violet A. Terrell.

S.R. 71 - By Glasgow: Memorial resolution for Lee D. Herring.

S.R. 72 - By Glasgow: Memorial resolution for Richard Clyde Sexton.

S.R. 73 - By Glasgow: Memorial resolution for Mrs. Elizabeth Hinnant Ross.

S.R. 74 - By Glasgow: Memorial resolution for Walter O. "Pelly" Gloff.

S.R. 75 - By Glasgow: Memorial resolution for W. M. "Boston" Smith.

S.R. 76 - By Brooks: Memorial resolution for Captain Othal L. Hamilton.



**WELCOME AND CONGRATULATORY RESOLUTIONS**

**H.C.R. 26** - (Lyon): Honoring seven persons who are representing Texas in the national "America Buckles Up/Border-to-Border" campaign.

**H.C.R. 28** - (Santiesteban): Honoring Alicia Rosencrans Chacon of El Paso.

**H.C.R. 30** - (Brown): Extending congratulations to the Houston Baptist University men's gymnastic team.

**S.R. 60** - By Sharp: Extending welcome to Dr. Barton Romanek of Lockhart, Capitol Physician for the Day.

**S.R. 77** - By Parmer: Extending congratulations to Mrs. Danese Medders.

**ADJOURNMENT**

On motion of Senator Brooks, the Senate at 1:55 o'clock p.m. adjourned until 9:30 o'clock a.m. tomorrow.

**APPENDIX**

Sent to Governor  
(August 28, 1986)

**S.B. 31**

Sent to Secretary of State  
(August 28, 1986)

**S.J.R. 4****FOURTEENTH DAY**

(Friday, August 29, 1986)

The Senate met at 9:30 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Absent: Howard.

Absent-excused: Green.

A quorum was announced present.

Senator Grant Jones offered the invocation as follows:

Heavenly Father, we do thank Thee for the blessings which Thou hast given us and we ask that Thou would help us to lead lives that will reflect the glory of Thy gifts. Give us Thy wisdom, Thy strength and give us the willingness to go Thy way. In Christ's name, Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.